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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,099	06/19/2003	Bohdan Konstantyn Zabawskyj	P1770US00	8416
54640	7590	04/20/2007	EXAMINER	
PERRY & PARTNERS 1300 YONGE STREET SUITE 500 TORONTO, ON M4T-1X3 CANADA			THIER, MICHAEL	
			ART UNIT	PAPER NUMBER
			2617	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/20/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/603,099	ZABAWSKYJ ET AL.	
	Examiner	Art Unit	
	Michael T. Thier	2617	

~ The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 19 June 2003.  
 2a) This action is FINAL.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-24 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-24 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 19 June 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 3 is objected under 37 CFR 1.75(d) 1, which states:

The claim or claims must conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description.

Claim 3 mentions a computer program product, with a computer readable medium, and a computer program. The specification does not explain what this computer program product is, and therefore there is no support in the specification.

2. Claim 5 is objected to because of the following informalities: Claim 5 recites "...to the Short Message Service Center..." However, no SMSC is previously recited. The claim should recite "...to a Short Message Service Center..."
3. Claim 8 is objected to because of the following informalities: Claim 8 is number as claim 6. Appropriate correction is required.
4. Claim 10 is objected to because of the following informalities: Claim 10 recites, "...wherein said authenticated subscriber..." There is insufficient antecedent basis for this limitation since there is no "authenticated subscriber" previously mentioned in claims 1-4, 4 being from which claim 9 depends.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 3-24 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 3 recites, "...implemented as part of a computer program product..." and "...a computer readable memory medium..." Both of these are inadequately supported. The original disclosure supports only a statutory/hardware system/method with only a brief mention that such hardware system/method can be or may be performed/substituted by/with a computer program product (see applicants specification, first paragraph of the detailed description of the preferred embodiments). There is no adequate and enabling disclosure, for a computer program product, or a readable memory medium, and therefore no explanation as to how the method of claim 2 is "implemented as part of a computer program product."

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-11, and 13-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Kalavade et al. (US 2003/0051041).

**Regarding claims 1 and 3.** (Claims 1 and 3) Kalavade teaches an improved method and computer readable medium for implementing a Wireless Local Area Network (WLAN) gateway system (abstract, par. 10-12).

**Regarding claim 2.** Kalavade further teaches providing for a real-time authentication and billing gateway system for WLAN traffic. (par. 12, and 68)

**Regarding claim 4.** Kalavade further teaches the idea where wireless subscribers seeking to access WLAN services must first authenticate (through any number of mechanisms either disclosed herewith or by reference to the state of the art) with the computer program product. (par. 12, i.e. authenticating the subscriber based on authentication information received from the subscriber.)

**Regarding claim 5.** Kalavade further teaches whereby the computer program product connects, by means of logical commands and means for the transmission of data, to the Short Message Service Center (SMSC) for non-repudiation purposes of

wireless subscribers seeking to access WLAN services. (par. 193-194, using SMS to deliver passwords to connect to the WLAN, if a refusal of service is required, the passwords would not be sent, therefore making the transmission for non-repudiation purposes.)

**Regarding claim 6.** Kalavade further teaches whereby the subscriber is authenticated by the computer program product and a short message (SM) is delivered to said subscriber's MSISDN through the relevant SMSC. (par. 193-194, using SMS to deliver passwords to connect to the WLAN, reads on this limitation.)

**Regarding claim 7.** Kalavade further teaches whereby said wireless subscriber sends an appropriate response message to the computer program product of the gateway which thereby permits access to the WLAN service(s) in question. (see par. 12 steps b and c)

**Regarding the second numbered claim 6.** Kalavade further teaches whereby in the absence of an appropriate response message to the computer program product of the gateway, no access to WLAN service(s) is permitted. (see par. 17, where it is explained that the gateway checks to see if the authentication is valid)

**Regarding claim 9.** Kalavade further teaches whereby Unstructured Supplementary Service Data (USSD) access technologies are also employed as a non-repudiation mechanism for wireless subscribers seeking to access WLAN services vis-a-vis the computer program product. (par. 203)

**Regarding claim 10.** Kalavade further teaches where said authenticated wireless subscriber is billed in relation to certain accounting variables, as, whether on

contract, or accessing such services by means of a voucher, or credit card or prepaid wireless account. (Kalavade teaches using the original WAN contract for the billing (par 13, part d), therefore the subscriber is billed in relation to accounting variables of that contract. The claim does not limit itself to supporting all the variables listed (i.e. voucher, credit card, prepaid, etc, and therefore Kalavade teaches this limitation.)

**Regarding claim 11.** Kalavade teaches where the charging for such billing scenarios is accomplished by an improved and integrated series of rules which are invoked and designed to sort, classify and/or rate WLAN traffic. (see par. 13 parts c and d. The idea that the system received information on the LAN usage and transmits this information in order to bill, reads on this limitation.)

**Regarding claim 13.** Kalavade further teaches where for contract subscribers the computer program product tracks, rates and converts said usage details into any number of Charging Detail Records (CDR). (par. 61)

**Regarding claim 14.** Kalavade further teaches where such CDRs are transmitted by the computer program product to the requisite downstream billing technologies. (see par. 232 where it is explained that the CBG collects the usage information and couples to the operators existing billing entities, which reads on transmitting the CDRs to downstream billing technologies.)

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 12, 15, 18, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kalavade et al. (US 2003/0051041) in view of Brown et al. (US 2003/0112936).

**Regarding claims 15, 18, and 21.** Kalavade teaches the limitations of the previous claims.

However, he does not specifically disclose the idea that the access to the WLAN can be paid for using vouchers, credit card, or a prepaid account. The examiner would like to note that these are well known and obvious features in the communication billing art, and would have been obvious to one of ordinary skill in the art at the time of invention. However, to clearly show these limitations the secondary reference Brown is provided below.

Brown teaches a billing system, method, and program (abstract) which allows for all three of these types of payments. See par. 47 where he explains using vouchers to pay for minutes, and par. 126 for using a prepaid account, and finally par. 136 for using a credit card.

Therefore it would have been obvious for one of ordinary skill in the art at the time of invention to utilize the payment methods as in Brown with the system and

method of authentication and billing in Kalavade. The motivation for doing so would have been to allow for a variety of payment methods, fitting all subscribers needs.

**Regarding claim 12.** Brown further teaches wherein such rules remain highly configurable and flexible given the dependencies and requirements in determining the tariff for a given session/subscriber. (see par. 139 where it is explained that the billing plan, i.e. tariff, can be replaced or supplemented, which reads on configurable and flexible.)

11. Claims 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over the grounds of rejection as applied to claim 15 above, and further in view of Lewis et al. (US 6947531).

**Regarding claim 16.** Kalavade and Brown teach the limitations of the previous claim.

However, they do not distinctly disclose the idea of creating a temporary account for a subscriber.

Lewis teaches the use of temporary accounts and storing calling time based on a number of credits. (see column 12 line64 to column 13 lines 27)

Therefore it would have been obvious for one of ordinary skill in the art at the time of invention to utilize the teachings of Lewis with the teachings of Kalavade and Brown. The motivation for doing so would have been to allow for a way to provide an improved system for free or discounted communication services (column 1 lines 39-42).

**Regarding claim 17.** Lewis further teaches where the temporary account created by the computer program product stores the remaining balance and periodically decrements it as such. (column 1 lines 22-26)

12. Claims 19-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over the grounds of rejection as applied to claim 18 above, and further in view of Sorber et al. (US 2003/0157925).

**Regarding claim 19.** Kalavade and Brown teach the limitations of the previous claim.

However they do not distinctly disclose validating the credit card for a set amount authorized by the credit card owner.

Sorber teaches a prepaid billing system and method (abstract). He discloses this limitations in par. 18 where he explains the users account to be replenished by a pre set amount authorized by the user from his credit card.

Therefore it would have been obvious for one of ordinary skill in the art at the time of invention to utilize the teachings of Sorber with the teachings as in the combination of Kalavade and Brown. The motivation for doing so would have been to reduce the inconveniences of lost revenue to a subscriber (par. 7).

**Regarding claim 20.** Brown further teaches the idea whereof for the protection of privacy and security, the computer program product particularly lacks the requisite logic or instructions required to store any sensitive details whatsoever relating to said

credit card parameters. (see par. 136, where it is explained that the caller does not enter account numbers for security.)

**Regarding claim 22.** Sorber further teaches to perform a balance check of said wireless subscriber's prepaid account by interfacing with the relevant Service Control Point (SCP). (see par. 13-16, specifically where it is explained that the balance of the prepaid account is monitored.)

**Regarding claim 23.** Sorber further teaches whereupon satisfaction of an adequate account balance, the computer program continues billing said wireless subscriber according to the rating rules therewith until said account is depleted or said subscriber disconnects. (see par. 17, where it is shown that the user receives a notification that the account needs to be replenished since it will be depleted soon, but since it is not depleted yet the user can continue to facilitate the use of one or more services.)

**Regarding claim 24.** Sorber further teaches where the idea to kill the WLAN session where the relevant wireless subscriber's account is depleted or otherwise unable to financially satisfy the pecuniary obligations tied to said WLAN session. (see par. 16, where if the account is not replenished and becomes depleted, there may be a suspension of services, which reads on killing the session.)

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael T. Thier whose telephone number is (571) 272-2832. The examiner can normally be reached on Monday thru Friday 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duc Nguyen can be reached on (571) 272-7503. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Michael T Thier  
Examiner  
Art Unit 2617  
4/11/2007



DUC M. NGUYEN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600